

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emilia Mancini	Team: Squad #7	CCRB Case #: 201804340	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/24/2018 5:00 PM	Location of Incident: Metro PCS located at West 192nd Street and Saint Nicholas Avenue	Precinct: 34	18 Mo. SOL 11/24/2019	EO SOL 11/24/2019	
Date/Time CV Reported Fri, 05/25/2018 1:55 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/31/2018 11:07 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Zulfiqar Ahmed	01226	934693	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Howard Peralta	02064	934052	034 PCT
2. POF Christina Whitehead	06744	957306	034 PCT
3. POM Joshua Cumberbatch	22517	962339	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Zulfiqar Ahmed	Abuse: Sergeant Zulfiqar Ahmed threatened to arrest § 87(2)(b)	
B.SGT Zulfiqar Ahmed	Abuse: Sergeant Zulfiqar Ahmed threatened § 87(2)(b) with the use of force.	

Case Summary

On May 25, 2018, § 87(2)(b) filed this complaint via phone with the Internal Affairs Bureau via log number 18-20864. On May 31, 2018, IAB referred this complaint to the CCRB.

On May 24, 2018, at approximately 5:00 p.m., § 87(2)(b) called 911 after a dispute with an employee of the store Metro PCS located at West 192nd Street and Saint Nicholas Avenue in Manhattan. PO Joshua Cumberbatch and PO Christina Whitehead, from the 34th Precinct, responded. Shortly after, Sgt. Zulfiqar Ahmed and PO Howard Peralta, from the 34th Precinct, also responded. Sgt. Ahmed asked § 87(2)(b) to leave the store but § 87(2)(b) refused. Sgt. Ahmed threatened to arrest (**Allegation A: Abuse of Authority**, § 87(2)(g) § 87(2)(b)) and to forcibly remove (**Allegation B: Abuse of Authority**, § 87(2)(g)) him if he refused to leave the store. Then, § 87(2)(b) left the store. No summonses or arrests resulted from this incident.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Zulfiqar Ahmed threatened to arrest § 87(2)(b)

Allegation B – Abuse of Authority: Sergeant Ahmed threatened § 87(2)(b) with the use of force.

It is undisputed that on the incident date, Sgt. Ahmed told § 87(2)(b) that there was nothing that the police could do about the dispute he had with the store employee because it was a civil matter. It is undisputed that Sgt. Ahmed told § 87(2)(b) that he would be arrested if he did not leave the store.

In § 87(2)(b) phone statement, he stated that Sgt. Ahmed told him, “At this point, if you don’t stop acting up and leave the scene, we’ll arrest you.” Later in his verified interview, § 87(2)(b) testified that Sgt. Ahmed told him something along the lines of, “If you don’t get out of here, we’ll have to arrest you. You are putting up a disturbance right now.” § 87(2)(b) took photos of the officers and their vehicles from his cell phone and left the store [1 Board Review, 2 Board Review].

Video footage obtained from the store’s surveillance camera shows that an officer, who is not visible in the video but was determined to be Sgt. Ahmed, tells § 87(2)(b) “If you don’t stop acting up we’ll have to forcibly remove you from the store” and “If you don’t leave we gonna have to forcibly remove you.” Sgt. Ahmed then states, “If you don’t comply, you are gonna end up in handcuffs.” A SnagIt capture from the video has been attached below [3 Board Review].



2018-08-09_12-38-00.mp4

Video footage obtained from PO Whitehead’s Body Worn Camera shows that a voice, who was determined to be Sgt. Ahmed’s states, “If you don’t comply you’re gonna end up in handcuffs.” Sgt. Ahmed then states, “I am gonna give you less than a minute, okay? Or we are gonna physically remove you.” § 87(2)(b) states, “Okay.” Sgt. Ahmed states, “It’s a civil dispute and you are being stubborn right now and very unreasonable.” A SnagIt capture from the video has been attached below [4 Board Review].



2018-08-09_12-47-42.mp4

Sgt. Ahmed testified that the employee asked to have § 87(2)(b) removed from the store because he was causing disturbance and inconvenience. Sgt. Ahmed asked § 87(2)(b) to leave the store a few times. However, Sgt. Ahmed did not remember how many times. § 87(2)(b) did not leave the store and kept talking about the dispute. Sgt. Ahmed told § 87(2)(b) that he had to leave the store otherwise he would be handcuffed and arrested because he was being “disorderly.” However, § 87(2)(b) refused to leave. Then, Sgt. Ahmed told § 87(2)(b) that if he did not leave the store, he will be removed by the officers. Sgt. Ahmed did not recall using the word “forcibly” while talking to § 87(2)(b). After mentioning that he could be arrested, Sgt. Ahmed asked § 87(2)(b) to leave the store approximately two or three times. § 87(2)(b) left after a few minutes. Sgt. Ahmed stated that § 87(2)(b) could have been arrested for disorderly conduct because he was being loud and preventing possible customers from entering the store. § 87(2)(b) could have been arrested for criminal trespass because he refused to leave a private business when asked to do so [5 Board Review].

When confronted with the video evidence, Sgt. Ahmed confirmed that, on the incident date, he told § 87(2)(b) “If you don’t stop acting up we’ll have to forcibly remove you from the store” and “If you don’t leave we gonna have to forcibly remove you” and that by “forcibly remove you” he meant that if § 87(2)(b) did not leave the store, officers would grab him from his arms and escort him outside. Sgt. Ahmed clarified that by using “acting up” he referred to § 87(2)(b) loud tone and animated gesticulating [5 Board Review].

A person is guilty of disorderly conduct when, with intention to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he makes unreasonable noise. Disorderly conduct is a violation. N.Y.S. Penal Law, Section 240.20 (2) [6 Board Review].

A person is guilty of criminal trespass when he knowingly enters or remains unlawfully in a building or upon real property. Regardless of its degree, criminal trespass can be either a misdemeanor or a felony. N.Y.S. Penal Law, Section 140.10, 140.15, 140.17. [7 Board Review].

When appropriate and consistent with personal safety, officers will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. Patrol Guide, Section 221-01 [11 Board Review].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [8 Board Review].
- Sgt Ahmed has been a member of the NYPD for fourteen years. This is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This case was eligible for mediation, but § 87(2)(b) declined to mediate.
- A Notice of Claim inquiry was filed with the Office of the New York City Comptroller on August 9, 2018. The request is still pending, as of the writing of this report [9 Board Review].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 7

Investigator: _____ Emilia Mancini _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date